

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

GLORIA CARDENAS, individually and on §
behalf of all others similarly situated, §
Plaintiff, §
§
v. § CIVIL ACTION NO. 5:20-cv-1264
VALENTINE & KEBARTAS LLC, §
Defendant. §

**DEFENDANT VALENTINE & KEBARTAS, LLC'S
NOTICE OF REMOVAL**

TO THE HONORABLE COURT:

Pursuant to 28 U.S.C. §§ 1441, 1446, and 1453, Defendant Valentine & Kebartas, LLC (“V&K”) in Cause No. 2020CI15882, pending in the 407th District Court of Bexar County, Texas, files this Notice of Removal to the United States District Court for the Western District of Texas—San Antonio Division, on the basis of federal question jurisdiction. Defendant respectfully shows:

**I.
FACTUAL BACKGROUND**

1. On or about August 20, 2020, Plaintiff Gloria Cardenas, individually and on behalf of all others similarly situated (“Plaintiff”) filed her Class Action Petition in which Plaintiff asserts claims against V&K for alleged violations of the Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. § 1692-1692p, as well as alleged violations of the Texas Debt Collection Act (“TDCA”), Texas Finance Code § 392 *et seq.*
2. Plaintiff served V&K with Class Action Petition and service of process on September 23, 2020.
3. Simultaneously with the filing of this notice of removal, V&K submits the following:

A. Attached as Exhibit “A” is the document served on V&K.

- B. Attached as Exhibit “B” is the Index of State Court events that clearly identifies each document and relevant event in the state court docket.**
- C. Attached as Exhibit “C” is a copy of the Plaintiff’s Class Action Petition.**
- D. Attached as Exhibit “D” is a Request for Process and copy of the fee paid.**
- E. Attached as Exhibit “E” is Officer’s Return of Citation for Defendant.**

II.
BASIS OF REMOVAL

- 4. V&K files this notice of removal within 30 days of receiving Class Action Petition. *See* 28 U.S.C. §1446(b). This Notice of Removal is being filed within one year of the commencement of this action. *See id.*
- 5. Removal is proper based upon federal question jurisdiction under 28 U.S.C. § 1331, 1441(a), and 1446. Plaintiff has alleged violations of the FDCPA, and the Court has supplemental jurisdiction over Plaintiff’s claims under the TDCA. *See* 28 U.S.C. § 1367(a).

A. THE CLAIMS ASSERTED BY PLAINTIFF ARISE OUT OF FEDERAL LAW

- 6. Plaintiff has asserted claims arising out of federal law. In Plaintiff’s Class Action Petition, Plaintiff expressly makes claims for relief under federal law by alleging causes of action under the FDCPA. *See* Class Action Petition, Sections 1, 9, and 11. Accordingly, removal is proper based on federal question jurisdiction. *See* U.S.C. §1331 (“The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.”); 28 U.S.C. §1441(c).

7. “In any civil action of which the district courts have original jurisdiction, the district courts shall have supplemental jurisdiction over all other claims that are so related to the claims in the action within such original jurisdiction that they form the same part of the same case or controversy under Article III of the United States Constitution.” 28 U.S.C. § 1337(a). Plaintiff’s federal and state law claims arise out of alleged actions taken in relation to debts owed by Plaintiff. Indeed, the state law claims are “so related” to the federal law claims that they “form the same part of the same case or controversy.”

III.
THE REMOVAL IS PROCEDURALLY CORRECT

8. V&K was first served with Class Action Petition and service of process on September 23, 2020. This notice of removal is being filed within the 30-day time period required by 28 U.S.C. § 1446(b).

9. Venue is proper in this District and Division under 28 U.S.C. §1446(a) because this District and Division include the county in which the state action has been pending and because a substantial part of the alleged events giving rise to Plaintiff’s claims allegedly occurred in this District and Division.

10. Pursuant to 28 U.S.C. §1446(a), all pleadings, process, orders, and all other filings served on V&K are attached to this Notice.

11. Pursuant to 28 U.S.C. §1446(d), promptly after Defendant V&K files this Notice, written notice of the filing will be given to Plaintiff, the adverse party.

12. Pursuant to 28 U.S.C. §1446(d), a true and correct copy of this Notice of Removal will be filed with the Clerk of the 407th Judicial District Court, Bexar County, Texas, promptly after Defendant V&K files this Notice.

13. Pursuant to Plaintiff's Class Action Petition, there are no other defendants in this suit and therefore there is no requirement of consent for removal of other defendants.

IV.
CONCLUSION

Based upon the foregoing, the exhibits submitted in support of this Notice and other documents filed contemporaneously with this Notice of Removal and fully incorporated herein by reference, Defendant Valentine & Kebartas, LLC hereby removes this case to this Court for trial and determination.

Respectfully submitted,

THOMPSON, COE, COUSINS & IRONS, L.L.P.

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**COUNSEL FOR DEFENDANT
VALENTINE & KEBARTAS, LLC**

CERTIFICATE OF SERVICE

I hereby certify that on October 23, 2020, a copy of the foregoing document was served on counsel for Plaintiff in accordance with the Federal Rules of Civil Procedure via ECF to the following:

Via E-Mail:

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/s/ Jason R. Jobe

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